

**REMARKS**

Claims 1-21 are pending in this application. No claims are amended, canceled, or added by this response.

**Claim Rejections under 35 U.S.C. § 103**

Claims 1-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mousley et al. (U.S. Pub. No. 2003/0100268, herein Mousley) in view of Agee et al. (U.S. Pub. No. 2004/0095907, herein Agee). Applicant respectfully traverses the rejection.

Applicant respectfully submits that the Examiner still has not identified, as requested in the previous response, the term in Mousley that is believed to teach “at least a first term representing an effect on data throughput for at least one possible type of error in detecting a state of the received ACK/NACK feedback information,” as recited in claim 1. Instead, the Examiner merely points to page 3, paragraphs [0030] – [0033]. Mousley merely describes at page 2, paragraph [0026] operating in two states including a first state in which packet transmissions are expected and a second state in which packet transmissions are not expected. Mousley discloses that this scheme enables the BS 100 to adjust its decision threshold. However, operating in two states clearly does not correspond to a “first term” as required by claim 1. Mousley further describes at page 3, paragraph [0030] that the BS 100 offsets its decision threshold towards the ACK signal for the first packet  $P_0$  of a sequence, to increase the probability of DTX being interpreted as NACK. This description fails to disclose the “first term” as required by claim 1. Mousley also describes at page 3, paragraphs [0032] – [0033] setting the decision threshold so as to minimize the average power requirement or to minimize the peak

power requirement. Again, Applicant respectfully submits that this disclosure fails to disclose the “first term” as required by claim 1.

Furthermore, Applicant respectfully submits while Agee describes an objective function, the objective function is not used to derive a threshold used in detecting a state of received ACK/NACK feedback information. To the contrary, Agee seeks optimize wireless electromagnetic communications, in particular, by including the effect of other links in the network in the objective function because transmit weights for the other nodes in the network may change the effect on the local model for each node. Accordingly, the objective function of the secondary reference is not used for ACK/NACK feedback information. Accordingly, Applicant respectfully submits that while this portion of Agee describes an objective function, there is no indication the objective function includes “at least a first term representing an effect on data throughput for at least one possible type of error in detecting a state of the received ACK/NACK feedback information” as required by claim 1. Further, there is no indication the objection function of Agee could be used for “detecting a state of received ACK/NACK feedback information for associated sent data based on at least one threshold derived using an objective function” as required by claim 1.

Accordingly, Applicant respectfully submits claim 1 is patentable for at least the above reasons. Applicant submits that claims 13, 18, and 19 contain limitations similar to those described above in reference to claim 1, and therefore, are patentable for at least the same reasons described above regarding claim 1 as well as on their own merits. Further, Applicant respectfully submits claims 2-12, 14-17, and 20-21, which depend from one of claims 1, 13, 18, and 19, are patentable for at least the reasons discussed above in reference to claims 1, 13, 18, and 19 as well as on their own merits.

In view of the above, Applicant respectfully requests the rejections under 35 U.S.C. § 103(a) be withdrawn.

**CONCLUSION**

Accordingly, in view of the above remarks, reconsideration of the objections and rejections and allowance of each of the pending claims 1-21 of the present application is earnestly solicited.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Scott A. Elchert at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

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